# City of Lafayette
# City Council Special Meeting
# Redevelopment Agency Special Meeting
# MINUTES

**Lafayette Community Center – Sequoia Room**
**500 St. Mary's Road, Lafayette, California**

**May 11, 2009**
**6:30 p.m.**

## 1. CALL TO ORDER

Mayor Tatzin called the meeting to order at 6:30 p.m.

## 2. ROLL CALL

Present: Council Members: Mayor Tatzin, Vice Mayor Andersson and Councilmembers Anderson, Anduri and Federighi

Absent: None

Staff: Staff: Steven Falk, City Manager, Mala Subramanian, City Attorney, Ann Merideth, Community Development Director, Tony Coe, Engineering Services Manager

## 3. ADOPTION OF AGENDA

**ACTION**: It was M/S/C (Federighi/Andersson) to adopt the agenda. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

## 4. PUBLIC COMMENTS - None

## 5. CLOSED SESSION

A. Conference with Legal Counsel – Anticipated Litigation: Significant exposure to Litigation pursuant to Government Code section 54956.9(b) (1 Case)

## 6. ADJOURNMENT

**ACTION**: It was M/S/C (Andersson/Federighi) to adjourn to the Special City Council Meeting at 6:58 p.m. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

APPROVED:

Don Tatzin

Don Tatzin, Mayor

ATTEST:

Joanne Robbins

Joanne Robbins, City Clerk

# City of Lafayette
# Special Meeting of
# Lafayette City Council
# Appeals Hearing Board Special Meeting

## MINUTES

**Lafayette Community Center – Manzanita Room**
**500 St. Mary's Road, Lafayette, California**

**May 11, 2009**
**7:00 p.m.**

### 1. CALL TO ORDER

Mayor Tatzin called the Regular City Council meeting to order at 7:00 p.m.

### 2. ROLL CALL

Present: Council Members: Mayor Tatzin, Vice Mayor Andersson, Councilmembers Anderson, Anduri and Federighi

Code Enforcement Appeals Board Members: Chair Clyde Long and Vice Chair Ned Robinson

Absent: None

Staff: Steven Falk, City Manager; Tracy Robinson, Administrative Services Director; Ann Merideth, Community Development Director; Niroop Srivatsa, Planning & Building Services Manager; Lean Greenblat, Transportation Planner; Glenda Warmoth, Assistant Planner; Mark Robbins, Code Enforcement Officer; Michael Cass, Assistant Planner; Sarah Allen, Planning Intern; Donna Feehan; Administrative Analyst; Mala Subramanian, City Attorney; Joanne Robbins, City Clerk

### 3. PLEDGE OF ALLEGIANCE – led by Raymond

### 4. PUBLIC COMMENTS – None

### 5. REPORT FROM CLOSED SESSION

Mayor Tatzin reported that the City Council had met in Closed Session and gave direction to staff.

### 6. PUBLIC COMMENTS - None

### 7. PRESENTATIONS

**A. Recognizing Brayton Noll and Naomi Wasserman for their service on the Youth Commission**
Recommendation: Receive and file.

Mayor Tatzin recognized Brayton Noll and Naomi Wasserman on behalf of the City Council for their service on the Youth Commission. Mr. Noll and Ms. Wasserman discussed events they successfully organized and participated in and the colleges they will attend, and fellow Youth

Commissioners spoke and thanked Commissioners Noll and Wasserman for their mentorship and assistance while on the Commission.

**B. Recognizing Jeff Kent, Contra Costa Bike Commuter of the Year**
Recommendation: Receive and file.

Mayor Tatzin recognized Jeff Kent, Contra Costa Bike Commuter of the Year, stating that Mr. Kent averages 120 miles on his bike a year to and from Pleasanton from Lafayette and awarded him with a proclamation and gifts from the Council. Mr. Kent said he has been bicycling for 30 years, stating that he worked at a Davis bike shop, moved to Chico, Los Angeles, San Ramon, and now lives in Lafayette. He praised the town for becoming bike-friendly and thanked the City for installing the sharrows along Mt. Diablo Boulevard.

**C. Michael Wright, Director of Re-Use Project, City of Concord**
**Update on the Plans for the Concord Naval Weapons Station**
Recommendation: Receive and file.

Michael Wright, Director of Re-Use Project, City of Concord, discussed his work over the last 3 years on the plans for the Concord Naval Weapons Station, stating it was declared as surplus property in March 2007 and left the City with 5,000 acres of land which is located within the City of Concord. They began in the Spring of 2006 with an extensive community planning process that led to goals and objectives. The Council wanted to make the property a world class project for the City and for the region, one with balance on the site of housing, commercial/retail and development of parks, recreation and open space areas. He discussed the community's interest for preservation of hills, focus of development at the North Concord BART station which is contiguous to the property, be less dense in moving southerly through the property and more dense up against the BART station, preservation of Mt. Diablo Creek and to have a diversity of housing and improvement of parkland in the City.

Mr. Wright said the process led them to work with the 21-member Community Advisory Committee who produced 7 alternative revolving around 3 themes; Extending the neighborhoods, comprising of low density and building out the way Concord is today; 2) a series of clustered villages along the western side of the property with density along the BART station area; and 3) Concentrating everything at the North Concord BART station and leaving significant portions of the site in open space.

In 2008 after a DEIR was completed on all 7 alternatives, additional workshops were held with the community to review findings of the EIR, review alternatives based on criteria that focused on transportation issues and green planning, land stewardship, economics and he said they have sensitive habitat to threatened and endangered species they must deal with in moving forward as well.

The Community Advisory Committee recommended to the City Council 2 alternatives; 1) the theme from concentrating everything at the North Concord BART and leaving portions of open space; and 2) the other theme for clustered villages along with western side of the property. Their preferred alternative of the two was the clustered village concept.

The City Council received these recommendations in November. In November, December and January they held a series of additional well-attended meetings and after deliberations, they designated the clustered village alternative as their preferred concept, and this alternative was forwarded to the Navy and to HCD along with the City's homeless assistance submission. When

closing military bases, one of the first things the receiving community must do is assess the needs of the homeless, determine those needs and provide for accommodations on the base, which in their case was family housing to meet the needs of the homeless.

He presented pictures of the existing golf course, North Concord BART Station, the existing downtown BART station, Willow Pass Road, Bailey Road, and other areas. 65% of the 5,000 acres is set aside in either improved parks or open space that has a series of trails, interpretive educational components. He presented a passive area and said they are working with EBRPD to ultimately maintain the area. He displayed improved parklands, heavy density around BART, transit-oriented development, retail and commercial areas, and he said 5 applicants have asked that the land be directly transferred to them under a federal public benefit conveyance which means it comes to them for free. 3,000 of the 5,000 acres are proposed to be transferred, the largest portion of which would go to the EBRPD. A 150-acre site is a potential campus for Cal State East Bay to build a 4-year university, an 80-acre site for a combined Sheriff and Fire Training and Emergency Command Center and two smaller properties near the BART station which will be used for self-help housing, a couple of acres for Habitat for Humanity, and 3 acres for the Center for Adaptive Learning which provides vocational therapy and assistance to men and women returning from Iraq and Afghanistan with severe head injuries. They also are building 135 family units with associated services on the property. A trust fund will be set up from proceeds of the sale which will provide for additional services and housing off of the base. 9 acres of land is also being dedicated to Solano and Contra Costa County Food Bank to build a new food bank and warehouse facility, which will also provide warehouse training for the homeless and a food preparation training facility.

Mr. Wright noted the Fact Sheet provided to the Council provides specific information on the project, and said they are looking at build-out in 35 years. He presented a snapshot of what the project looks like within the City's General Plan and the development pattern for the City of Pittsburg on their side of the ridgeline. He said the two alternatives presented are currently under CEQA review and another draft EIR will be published this summer. They will have a Reuse Plan which will necessitate them amending their General Plan and begin to entitle the property over the next two years. In addition, the Navy must do their own federal EIS, a Section 7 consultation must be done for wild and endangered species on the property, a 106 compliance consultation with the State and they estimate completion in 18 months or more. He said once completed, the property will be moved into public benefit conveyance for no cost and the balance will be sold through public auction.

Vice Mayor Andersson questioned if a phasing would be done and he confirmed with Mr. Wright that a series of developers have already held conversations with the City, many have talked about starting up by the BART station and he noted there was no current infrastructure on the property.

Vice Mayor Andersson questioned if transit would be provided on streets, and Mr. Wright said they will create additional density moving away from BART and there is a limited access parkway to provide high speed bus connection through the clustered villages to BART. If enough density can be gained at the core of the villages, they may be able to tie it back to other older areas of Concord and provide even better bus service looping with the Concord BART Station.

Vice Mayor Andersson questioned and confirmed there were left over environmental issues from the naval weapons station, and out of 5,000 acres, 1,200 acres have some level of contamination from old maintenance facilities and motor pools. Mr. Wright said in the 1940's, they used arsenic as an herbicide to keep weeds off of the bunkers. All of these areas have some sort of arsenic

contamination in the soil; however, arsenic does not spread. It sits on the top 14 inches of the soil and is relatively easy to clean up.

Councilmember Anderson questioned what sort of discount would be realized from the lessened traffic impact as a result of the BART station and the project being a TOD, and Mr. Wright said a 20% discount was utilized which most transit planners looking at these kinds of SMART growth plans is very conservative. They have had to manually do this because CCTA models do not allow recognition of TOD because it does not exist much in Central Contra Costa County. They and BART believes it will be a much higher ridership. In addition, they realize that the answer to the site is not building homes, and believe that if jobs cannot be attracted to the property as an employment center, the project will not work for anybody. If they can do this, there is a lot of reverse capacity both in the roadway and BART system to service the site, which is another answer to drive up ridership, as well as those coming to the base to work.

Councilmember Federighi questioned and confirmed that the Fact Sheet was the most current and had not been updated since January 30, 2009. She said it looks like high density residential is listed as 50, but Mr. Wright had mentioned 65. Mr. Wright said the Council has voiced support for the higher density numbers. She questioned what the anticipated jobs/housing balance was, and Mr. Wright said it is set up for 2 jobs for every housing unit built on the property.

Mayor Tatzin questioned how far out would the EIR assess impacts. Mr. Wright said it would assess to the edge of the Walnut Creek boundary; however, it depends upon what the issue is. Some of the issues need to be addressed on a regional basis such as climate change, GHG issues, and from a transportation perspective, they are going far east toward Antioch and Brentwood and all the way down to intersections with I-680 and 242 which would have a direct impact.

Mayor Tatzin questioned if they were looking at impacts on BART at peak hours going into San Francisco. Mr. Wright said they are looking at BART impacts, but not doing anything specifically with Highway 24.

Mayor Tatzin questioned and confirmed that if the EIR scope had been set for over 1 year; however, Mr. Wright said a copy can be sent to Lafayette for comment.

Mayor Tatzin thanked Mr. Wright for his presentation.

***Convene Appeals Hearing Board***

**ACTION**: It was M/S/C (Andersson/Anderson) to convene the Appeals Hearing Board. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

**D. Update from the Code Enforcement Appeals Board**
Recommendation: Receive and file.

Chair Clyde Long and Vice Chair Ned Robinson introduced themselves. Chair Long said they have not met in 2008, said their role is to hear appeals from a staff level or from the code enforcement level and there has been good staff work done.

Mayor Tatzin questioned if staff anticipated any appeal issues arising. Mr. Mark Robbins, Code Enforcement Officer said he did not believe there were any issues he saw coming to the Board in the future.

Councilmember Federighi questioned if any fines had been imposed. Mr. Robbins said no, they have worked in conjunction with the Contra Costa County Building Division and compliance is their focus.

Vice Chair Robinson felt that given they have had little or no work, it is a credit to the staff who has done an excellent job in mediating and resolving controversial items without the need for the Board to meet.

***Adjourn Joint Session***

**ACTION**: It was M/S/C (Andersson/Anderson) to adjourn the Appeals Hearing Board. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

**8. OLD BUSINESS**

**A. Tracy Robinson, Administrative Services Director**
**City Charter and Communications Committee**
**Timeline, Process, and Discussion of Council Expectations**
Recommendation: Review the process and timeline. Discuss and direct the Committee.

Mayor Tatzin reported that the City Charter and Communications Committee were formed and four meetings have been held. Cheryl Noll was elected as Chair and Yolanda Vega as Vice Chair, who would provide a presentation.

Chair Noll reported the Commission has been meeting, information was forwarded to the Council from their last few meetings, and she wanted to ensure they were moving in the right direction.

Councilmember Anderson said he really appreciated receiving information about Charter Cities, the differences between them and General Law cities, as well as dividing out cities and reviewing their operations was also a good technique. He felt the committee was heading in the right direction, he suggested getting a timeline started to discuss information and options for the City.

Chair Noll said this was the second part of their charge; they are waiting to see what their recommendation is prior to determining how it needs to be forwarded to the City. She questioned if the Council was looking at other factors besides differences in cities.

Vice Mayor Andersson said it seems one issue which is likely to arise and would be interesting to identify is for those cities that become Charter Cities, whether they have one particular issue or element in mind. He also questioned what the tendency has been to add new things to the Charter, and whether or not cities that become Charter Cities for one particular purpose and over time are restricted to that purpose. Chair Noll said these are questions the Committee has for each city and they are finding out there are various reasons. They also identified those cities that have become Charter Cities over the last 5 years and those for a lot longer time, as well.

Councilmember Federighi questioned what the basis was for the Committee choosing particular cities as opposed to others. She noticed most of the cities covered are in Alameda but not all, such as San Leandro, which is a Charter City. Chair Noll said they looked at cities similar to what Lafayette is like, those in Alameda that were not similar, members of the Committee also knew people in that particular city where they could easily obtain information, they chose newly chartered cities versus older chartered cities, those which had a smaller versus larger charter, and they are really trying to look at everything.

Vice Chair Vega said they were given a list of various cities and they wanted to be assured they were choosing from a variety of California cities so that if they were asked why they picked a particular population, they wanted to be as diverse as possible in their search.

Mayor Tatzin said one of the things the Committee looked at was trying to have a number of cities such as San Ramon that are similar enough to Lafayette that people can relate to issues from that city. So there are a number of charter cities in the Bay Area where they are not mentioned in town, so an example would not necessarily resonate as well.

Mayor Tatzin said the information shows that there are a number of things cities may do as a Charter City that cannot be done as a General Law City and he felt it would be helpful where additional focus might be obtained, such as term limits, quorum in voting requirements, or having an elected City Clerk. Councilmember Federighi said what spurred the work on was the ability for Charter Cities to be able to impose a real property transfer tax and she would hope to see information on this, such as ranges, approval rates, and when did they impose the successful tax.

Vice Chair Vega said they did review this to determine if they imposed a transfer tax and they were surprised to see the results on it. Councilmember Anderson said he was interested in seeing the potential in public contracts to not require following State bidding requirements and not having to pay prevailing wage, and asked to hear more about this. He also asked to identify whether or not there have been problems with this, as well.

Councilmember Anduri said in looking at the list of cities, he questioned why every major city in Tulare County is on the list. Chair Noll said she was not sure and she confirmed that south of Folsom and Sacramento there was over ten cities in Kern, Madera, Merced and Fresno. Chair Noll said they can look at adding a city up there and asking a question.

Mayor Tatzin confirmed the schedule would include the Committee conducting research of cities in the next two to three weeks, meeting again to discuss outstanding issues, coming to a consensus in the middle of June, returning with a recommendation, and if needed, look into becoming a Charter City, drafting a Charter and returning to the Council in September.

**B. Niroop Srivatsa, Planning & Building Services Manager**
**Review of draft comments on the Final Environmental Impact Report (FEIR) for the Moraga Center Specific Plan**
Recommendation: Authorize staff to forward comments to the Moraga Town Council

Planning and Building Services Manager Niroop Srivatsa said City Transportation Planner Leah Greenblat and Andrew Kluter, P.E., Senior Engineer/Associate with TJKM Associates were present to answer questions regarding the traffic analysis. The Council considered the matter last year when the Draft EIR was released. At that time, TJKM was hired to review the traffic component of the Draft EIR and Lafayette forwarded a letter to Moraga about the traffic impacts of the Specific Plan on the streets and intersections in Lafayette. Moraga then prepared a Final EIR and responded to comments contained in Lafayette's letter. TJKM has been retained to review those responses to comments. In summary, staff believes that the Final EIR does not adequately respond to concerns raised during the Draft EIR process, it fails to study the impacts of the project on intersections and streets in Lafayette, and does not provide realistic and adequate mitigation measures for those intersections and streets.

Staff has prepared a draft letter which was revised by Mayor Tatzin., The Moraga Town Council was scheduled to hear the matter Wednesday, and their calendar shows them certifying the EIR on May 27th. The City of Orinda is also concerned about the impacts of the project and TJKM is working with them as well.

The project description calls for 720 residential units, 90,000 square feet of retail, 50,000 square feet of office, an 85-room hotel, 150 assisted and congregate care units and a 30,000 square foot community center which will be a regional draw. When the Moraga Planning Commission reviewed the project, they selected an alternative in the EIR that has fewer residential units. Additionally, the Moraga Parks and Recreation Commission has recommended the community center be downsized from 30,000 to 20,000 square feet. However, there is no guarantee that the Town Council will approve the reduced alternative.

Staff recommends the Council authorize staff to forward the letter to the Town of Moraga. There has been little time to review the extensive document and if there are additional comments, staff will submit them to Moraga prior to May 27th.

Vice Mayor Andersson said one item of contention seems to be the internalization rate on trips and he gathers the difference from what is proposed and what staff would like to see is based on St. Mary's students and what their trip generation might be, and asked for further explanation.

Mr. Kluter said he conducted a trip generation study for the project and found overall there were 17% higher trips for the PM peak hour. For St. Mary's residents, based upon TJKM's estimates, they represent only 5% of the total project for the PM peak hour. So whether or not an internalization rate is applied, there will not be much difference reflected in the analysis.

Mayor Tatzin questioned to what extent did TJKM recognize that the proposed plan sets aside housing specifically for faculty, staff and students of St. Mary's College as they thought about external trip generation. Mr. Kluter said the Fehr and Peer's analysis assumes that the internalization analysis had to do with students that would live near campus and live in those units. However, there is the potential that the residential units may not be reserved for students and they may actually become units where external trips are generated that go in and out of Moraga and into Orinda and Lafayette, and this is not accounted for.

Mayor Tatzin questioned if TJKM's analysis assumed over time that those units would not be reserved for students, and he questioned any differences in percentages to what Fehr and Peers had. Mr. Kluter said the higher trip generation TJKM assumed would take this into account; higher external trips leaving Moraga that would go to adjacent cities.

Mayor Tatzin said one of Moraga's assumptions is that not only is there a way to ensure that the housing units are reserved for students and staff is essentially to have St. Mary's acquire control of the property either through lease or purchase, and then have part of the agreement with St. Mary's for development be that this is student, faculty or staff housing. So if that were to occur and you had some confidence and surety, he questioned if TJKM would use the same rates in its calculations that were used. Mr. Kluter said the differential is about 5% in what was assumed and what they assumed as the student internalization. So, the overall impacts to the intersection are negligible. Mayor Tatzin questioned then what causes the big differences between TJKM's assessment and Fehr and Peer's assessment. Mr. Kluter said part of it has to do with the retail; they assume a high internalization of retail trips. He also finds retail estimates were based on current vacancy rates in Moraga which is 9%, which does not take into account the worst case retail trip estimates if there is full vacancy with a new project.

Ms. Srivatsa referred to the TJKM report dated July 31, 2008 which was attached and sent to Moraga with the Draft EIR letter, page 2, the St. Mary's residences are only 50 units compared with the other multi-family and single family uses proposed within the Moraga Specific Plan. So, student housing does not account for all of the overall housing.

Mayor Tatzin questioned how much it would change, assuming the Council approved the Planning Commission alternative. Ms. Srivatsa said the number of St. Mary's faculty/student housing remains the same. The number of single family homes increases from 20 units to 65 units and the number of senior housing goes down from 300 to 230 units. The number of compact residential units which are at 10-12 du per acre is reduced from 300 to 165. As a percentage, the St. Mary's student housing increases.

Councilmember Federighi said in the TJKM Report of July 31st on page 2, it looks as though it is 45 units. She questioned if the single family unit number go from 30 to 65. Ms. Srivatsa confirmed that the single family unit number goes to 65 in Alternative 4 and active senior residences go from 300 units to 230 units.

Councilmember Anderson referred to the Planning Commission's option and suggested the letter refer to this; that regardless of the option, the Lafayette Council still has a problem with the analysis that has been done as inadequate. He suggested taking the beginning of the second to the last paragraph of the letter and move it up to the top after, "however we feel the EIR still does not study the project's impact on neighboring jurisdictions adequately" and then move to, "attach the letter as reviewed by TJKM." This will let them know the City has a lot more than just speculation and good, hard evidence that shows the assessment is not adequate. He wants them to know upfront that the Council has a good strong report on the situation.

Councilmember Federighi said the point that TJKM makes is that the total housing units for St. Mary's is a relatively small percentage. Councilmember Anderson asked to copy the Orinda City Council.

Mayor Tatzin noted there was Council consensus to send the revised letter, moving up the second to the last paragraph, and removing the word, "However" and start the sentence with "We feel..."

**ACTION**: It was M/S/C (Anderson/Andersson) to authorize staff to forward comments to the Moraga Town Council, as amended. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

## 9. STAFF REPORTS

## 10. PUBLIC HEARINGS

**A. Glenda Warmoth, Assistant Planner**

**Appeal by the applicant of the Planning Commission denial of: MS511-89CC & DR32- David Claydon (applicant), David & Ann Inglis (owners), R-10 Zoning: Request for: (1) design review pursuant to Section 6-1903 of the Lafayette Municipal Code to construct a 576 sq. ft. second-story addition over the existing garage with a maximum ridge height of 24'- 0" increasing the total square footage to 3,684 sq. ft. thereby requiring (2) a change to Condition of Approval #33 for the minor subdivision that created the lot (file number MS511-89) that restricts the total floor**

**area of all structures on the lot to 3,115 sq. ft. located at 3538 O-Connor Drive, APN 241-200-046.**
Recommendation: Adopt Resolution 2009-28 upholding the Planning Commission denial of MS511-89CC & DR32-08.

Assistant Planner Glenda Warmoth said the matter before the Council is a de novo appeal by the applicant, David Claydon, of the Planning Commission's denial of their change of conditions and design review application. The matter was denied on April 2nd after two additional meetings with the Design Review Commission (DRC). The proposed project was a second story addition above the existing garage of the residence and it initially was before the DRC in December 2008. At that meeting, they received a favorable response and recommendation of approval to the Planning Commission. When the matter went before the Planning Commission, they received public comment letters that the DRC did not have benefit of, and concerns were raised regarding privacy among other issues. The Planning Commission felt those concerns were important enough to be considered by the DRC and remanded the application back to that commission for additional review, which she said was unusual.

After two additional hearings before the DRC and additional alterations to the building's design, the DRC found they could not make the findings necessary to recommend approval and sent the matter back to the Planning Commission recommending denial, which is the action the Commission took. Staff is before the Council with the appeal and recommends upholding the Planning Commission's denial because the design of the structure still does not conform to City's Design Review findings for structures that exceed 17 feet in height.

Councilmember Anduri questioned if staff has a policy with respect to how it deals with applications that seek to change a subdivision requirement. The subdivision was established around 1990, people buy their homes with the understanding there are certain requirements for the area, and he realizes time has passed, but he questioned what the expectation of residents was. Ms. Warmoth said according to conditions of approval, property owners are allowed to seek a change of conditions. The request goes back to the original board who acted on the matter; in this case the Planning Commission, and they would consider if the original intent could still be met or if the rule based upon new conditions in the area deserves to be changed.

Councilmember Anduri questioned if this was considered at the Planning Commission. Ms. Warmoth said the Planning Commission spent a small amount of time looking at what the square footage intent was. They requested the subdivision minutes and they did not specifically why the condition was placed.

Vice Mayor Andersson said in looking back at the condition itself, it stated the expansion was not inconsistent with the original intent. He thought there might be an explanation of what the original intent was, but the condition states, "The total floor area of all structures shall not exceed 3115" and no further explanation of this was given. Ms. Warmoth said it leans toward the fact that if you continue on in the wording of the subdivision conditions, it assumes that if there is a second story, that that square footage shall not exceed 50% of the first floor area. So, it wasn't precluding having second story additions, which is where the Planning Commission was leading—that there might be a design that could have over that square footage and still be consistent. But what was put before them at the time was not the correct design.

Councilmember Federighi questioned whether or not the Commission was implying that it would ultimately have been a superior design to have the addition over the center of the house where the actual height would be a great deal higher. Ms. Warmoth said the Planning Commission did

not address this in their discussion of the project; the DRC made this announcement a couple of times—that they felt that the location of the addition was inconsistent and they recommended it be moved center to resolve some of the privacy concerns raised by the neighbor and to balance out the massing with the architectural design of the building. She agreed that it was both a design and privacy concern.

Councilmember Anderson questioned if the Council needed to consider this in two parts; one being a change in conditions and two, the actual design proposal, or altogether? Ms. Warmoth said the Council should consider it altogether.

Mayor Tatzin said there are two requests and the Council would need to be able to make findings for both in order to overturn the Planning Commission, and Councilmember Anderson agreed.

The public hearing was opened.

David Inglis, owner, said he and his wife lived in the home for over 10 years, they have 4 children with the eldest being 21, and as a result, the house is not large enough. Their two eldest daughters share a bedroom and when they have visitors all three daughters must share one bedroom, which is becoming untenable. They were planning to purchase another house in Lafayette and actually put an offer on a house mid last year; however, due to mortgage problems, it fell through and they did not want to buy and sell in uncertainty. At the same time, his mother-in-law in England got run over by a car and now partially disabled and they would like her to be able to stay extended periods which would necessitate her taking over the master bedroom suite. Therefore, the solution was to add an addition to their current home. In looking at all possible locations, the over-the-garage location was the best solution.

They took their design to the DRC which was unanimously approved with glowing comments. He stressed that although subsequent designs were turned down, the design they are asking for approval for is the one which was unanimously approved by the first DRC meeting, with one exception—they asked him to clarify privacy issues and sill height of windows on the east side, and they agreed to replace those windows with skylights. He said subsequent to that meeting, and one day prior to the Planning Commission meeting, they received objections from neighbors to the east and they were asked to return to DRC after having considered neighbor's objections and coming up with another design. They have been through two design reviews, have not managed to improve on the first design, and neighbor objections had to do with massing and privacy issues. The DRC and Planning Commission asked him to canvass more neighbors to determine if there were any more issues. He said he visited neighbors 360 degrees around their house and no neighbors had any concerns except for the neighbor to the east. He subsequently held a meeting with the Crawford's and not able to come to an agreement. The Crawford's indicated that the privacy and massing issues were irrelevant and they were simply going to object the addition in the location proposed or whatever they would do to change the home's design.

Mr. Inglis said one issue they were asked to review was privacy, massing and light issues. He conducted calculations to determine what effect the addition would have on the Crawford's and referred to the document he produced which includes photographs showing clearly that in the summer months, one can hardly see that there is a house on the other side due to trees on the Crawford's lot, but light issues are irrelevant in that the size of their existing trees provide a great deal of shade. During winter months, however, he agreed foliage opens up and the extension would be visible from the Crawford's house. However, in terms of the amount of light, there would

be a minimum amount of two hours of shade caused by the addition and also an amount of shade caused by the Crawford's.

David Claydon, Architect, said they were denied without prejudice with the understanding that they re-evaluate the position of the addition. The Planning Commission implied they had no problems with the additional floor area, but it was the position of the floor area of concern. He said as an architect, he tries to design a single story addition, put it in the center of the house in order to avoid a lopsided design, but in this situation there are unique circumstances. He said setbacks leave no space in the front or sides to add a single story addition, the only location is in the rear yard which is their only outside living space, and if an addition were added in the rear they would severely compromise the master bedroom suite which will be for his mother-in-law.

Having discarded the single story addition and looking at opportunities to develop on top of the house is where it became difficult to add a second story. The house is prefabricated with panels of construction with a scissor truss roof. In order to add to it, they would need to remove the roof, take out all ceilings and the house vacated for 4-5 months. There are skylights and vaulted ceilings which provide a nice space, so the garage presented a perfect opportunity and he presented the relative scale of what would have been done over the center of the house versus over the garage.

He described the existing concrete slab, said the house is already 3 feet higher than the ground, they have set the addition back from the sides, stepped the elevations, squeezed the plate height and have taken out windows on the side to provide perfect privacy for neighbors, the view is extended from the north to the south without impacting any neighbors, and he summarized that the solution received unanimous approval by the DRC. They believed it was very modest, met all findings, and it was unfortunate that in subsequent attempts to re-design and push the building down, the DRC felt aesthetics had been compromised and they did not support the later design. Therefore, he asked the Council to consider the original application.

Councilmember Anderson asked to clarify the various plans presented to the Council. He referred to a plan dated March 18, 2009 and questioned if this was the current proposal. Ms. Warmoth confirmed that the plans to be considered which only the Council has are labeled, "Reviewed by the Planning Commission January 22, 2009" and are date-stamped January 5, 2009. Mr. Claydon noted these plans received full DRC approval.

Councilmember Anderson questioned if the plans had windows on the eastern side, and Mr. Claydon said it does show the windows, but they have subsequently agreed to remove them.

Councilmember Federighi said her plans show date-stamped February 5, 2009 and described them, and she confirmed these were part of the January 5th submittal. Ms. Warmoth said there are three pages as part of the submittal and then a break with an 8.5x11 cover sheet that separates the next sets of plans. Councilmember Federighi confirmed with Ms. Warmoth that the March 18th submittal was rejected.

Mayor Tatzin asked Mr. Inglis to restate what the loss of direct sunlight would be on the neighbor's property during the winter, and Mr. Inglis said the maximum would be two hours at the end of the day prior to sunset, and in the summer it is not very much because of shading from the neighbor's trees.

Councilmember Federighi said the applicant provided photographs showing the current visual effect of the garage roof. She visited the property and walked in front of the neighbor's house and

around both sides and could not see much of anything from one side but could definitely see the roof through the trees now from the other side. Mr. Inglis said because the extension extends above the roof, it gets even higher up into the canopy of the trees. He said he took photographs and he found it very hard to see the neighbor's house through the trees.

**Public Comments**:

NANCY CRAWFORD said she lives immediately to the east of the proposed addition, requested the Council that her husband be able to provide panoramic photographs that specifically address the proposed addition seen as towering over their backyard and blocking their light. She said they have apartments on the other side and are on a flag lot and blocked by the house on the front side. On February 24th, this was noted by a DRC member as a cavern-ness effect of being blocked from all sides by the addition. She asked that the Inglis' meet with them to propose different alternatives to the addition that would be amenable to everybody and Ms. Inglis could not meet. She asked that they build on the opposite side of the property and flat into the yard. A 575 square foot addition, excepting the normal 3,115 square foot subdivision approval is a big bedroom addition. She said when she moved into her house in 1990, she attended the Planning Commission meeting and Item 5 of the minutes read that Commissioner Garren state that a reasonable sized home might not be possible. At that time, Commissioner Ateljevich said the size of the lot was of marginal concern. Commissioner Samson said he wanted to be involved in the design of the house. Finally a home was built and now, less than 8 years later, the home is requested to be increased beyond the size of the subdivision approval limits and over 24 feet looking directly down into her backyard. She said even if there are no windows, the light, privacy and quiet enjoyment of the property are in jeopardy. The Inglis' have 5 cars, pets in and out, both lots are flag lots, and they have lost the quiet enjoyment of their property. Further, according to County records, the Inglis' own another home one block away, and she suggested having the grandmother and adult children move to that home. Also, in an attempt to resolve this, she is a realtor and offered to sell their house at no commission so they could find a 4,000 square foot house elsewhere which would meet all their needs, which was declined. She said they are probably not against an addition, but they would like it to be a one-story addition and do not want it on top of the garage.

COLIN CRAWFORD added that he and his wife were never approached by the Inglis' with any consideration they were going to be building, which might have changed the unanimous vote if not the entire appeal. He said he knows that houses can only accommodate so many people, and he believed that overbuilding it is not a resolution to the problem.

Nancy Crawford referred to the DRC minutes of the February 24th meeting, they specifically asked the Inglis' if she or her husband were ever approached with the project, and they never were until a meeting was called with them in an attempt to resolve it on March 15th. Unfortunately, Ms. Inglis did not show and Mr. Inglis was dead-set on the exception to the square footage and the large addition to the bedroom over their backyard.

Mayor Tatzin said the Council received the layout of the neighborhood homes, and he questioned whether the space between the homes characterized as the side, front or back yard. Ms. Crawford described the layout of the homes, and said if a 24 foot addition is proposed, they will be land-locked, and there was not much space on the east side.

*Appellant/Applicant - Rebuttal*

DAVID INGLIS, owner, corrected a statement noting that the Crawford's did not ask for a meeting with them. He said he actually wrote them a letter asking for a meeting and asking to view their property from his home. They chose to decline that request and asked for a meeting at Starbucks instead. In addition the Crawford's mention the privacy and quiet enjoyment of their home. He said today, the Crawford's chose to cut three feet off the top of his hedge that separates their two properties which is on his property. He described the view on the left side of the picture as his home and behind the hedge, the Crawford's. The first photo was taken on April 21st and the second taken this afternoon after they cut the top of his hedge down by 3 feet all along the property line. He said he now has a significant additional view from their property of the Crawford's. Given they have chosen to open up the view themselves without requesting it from him, he was not sure why they could possibly complain about privacy or light issues when they deliberately choose to see more of his property, as well as the rights violated to cut the hedge.

MR. CLAYDON, Architect, said he has been an architect in Lafayette for 20 years, is familiar with the principles of design review and the foremost concern behind the guidelines is to preserve privacy, views, and be compatible with neighbors. He feels they have met all design criteria, the Crawford's home is at an angle and is 48 feet from their proposed addition, and he presented a diagram showing the visual impact from the additional height of building, which is extremely minimal. Regarding privacy, they guarantee complete privacy for the Crawford's by taking out windows along the eastern elevation. Regarding the canyon effect of the building, they have actually lowered the plate to 7'6" which is minimal and it is unfortunate that the Crawford's chose to cut the hedge off because it had already grown 3 feet in height and the Inglis' have lost 8 years of careful attention to the hedge. He also proposed that the hedge could grow higher at 15 feet which would basically screen the building completely. He felt the issue came down to the neighbors seeing the property and does it impact their privacy, views or light.

Councilmember Anderson questioned and confirmed with Mr. Claydon that the ridge height change was slightly less than 7 feet from the existing top of ridge. When viewing the front elevation, they are taking the ridge board and integrating it into the ridge of the existing home; therefore, it does not appear lopsided.

Councilmember Anduri confirmed that the addition would remove a maximum two hours of sunlight prior to sunset on the neighboring property when there are no leaves on the trees. Mayor Tatzin questioned if it would be about an hour per day, and Mr. Claydon said during mid-summer, there is shading from the Crawford's trees, the shadow goes past the building at the time the sun sets, the Crawford's get a lot of sun from the north direction.

The public hearing was closed.

Vice Mayor Andersson referred to Condition 33 limiting size, confirmed it was a two-lot subdivision that created the flag lot and asked if the 3115 applied to all four lots. Ms. Warmoth said she was only aware of it applying to the rear or Inglis' lot, and that there was an existing residence on the front lot when the subdivision was done which had no limitation placed on it.

Councilmember Federighi said when she first looked at the plans; she felt the addition was modest. She looked at other alternatives, looked at the letter from the Inglis' discussing restrictions to building elsewhere, she visited the property, and believed the front yard and back yard were modest. A second story addition to what is much lower in elevation seemed not unreasonable. However, she said the lots are very constricted and in taking a look at what effect the addition would have on the Crawford's, her reaction was that the current roof which is low is something they really could see. She would have concern if it were increased. Personally, she

leaves design issues with the DRC, but she voiced concern with the small, restricted lots and the impact on the neighbor would be a disservice especially since the condition is supposed to be adhered to. She found unpersuasive with the argument that their family size has grown, and alternatively some people cannot move as property taxes increase and property values have decreased. Therefore, her objection would be changing the conditions of approval and not on the issue of design.

Vice Mayor Andersson said he had the same issue and did not get to the questions of visibility because he cannot get past the condition, which is clear; 3115 square feet. He did not support the subsequent comment about the second story not being more than 50% of the first floor and the recent Planning Commission discussion as to why it was at that particular level. He said he only assumes that because the lots are small and cramped, this was as much as the Commission was willing to permit. He did not see the reason why there should be a different expectation today than there was over the past 19 years, and he could not make the findings to overcome that condition.

Councilmember Anduri agrees with Councilmember Federighi and Vice Mayor Andersson; he does not reach the design issue either. He thinks an expectation was set regarding the property, a property right was created, and he did not see anything in the Planning Commission or DRC minutes that really addressed a rationale for changing the original limitation. He agrees with Vice Mayor Andersson that the second story ratio is just a ratio and this does not mean that having chosen to do it on one later that you can later do a second story. He voiced concern with the loss of sunlight, as well.

Councilmember Anderson felt it was important in dealing with the issue in two parts and he did not believe it happened in the first review of the matter, which he feels is a little injustice to the applicant. If he got a better sense of whether there would be a chance to have the condition changed, it would have been less taxing. He agrees with fellow Councilmembers that there is no basis to change the condition; however, he feels the addition is minimal, is concerned that the process might have been easier if a decision had been made early on about the condition that was well based and stated somewhere in the process. However, he did not see it. He supported denial of the appeal.

Mayor Tatzin agreed with Councilmembers, as he questioned if there was a rationale for increasing the size. The general criteria he would focus on would be impacts on the future viability of this property and effects on the other properties. He thinks there is some excessive effect on the neighboring property which is of concern, as a portion of their outdoor primary living space is in shade. He understands the applicant has a number of reasons not wanting to center the addition in the house or backyard, but it was more convenient for the Council to be put in a position that inconveniences the neighbor. He understands how they got there but disagrees with the conclusion. He felt the applicant could have done a larger remodel to the existing structure which would have been more expensive and take more time, they could have done something in the rear yard which may not have impacted neighbors, and he did not feel the burden should be on the neighbor as a result of not wanting to do either. He supported upholding the Planning Commission's denial

**ACTION**: It was M/S/C (Andersson/Federighi) to approve Resolution 2009-28 upholding the Planning Commission denial of MS511-89CC & DR32-08. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

**B. Sarah Allen, Planning Intern and Michael Cass, Assistant Planner**

**GP02-09 City of Lafayette (applicant): Amending Growth Management Element of the Lafayette General Plan to comply with Contra Costa Transportation Authority's Measure J requirements. Amend Goals, Policies and Programs in the Land Use, Circulation and Safety Elements for consistency with the Amended Growth Management Element. Consideration of an addendum to the General Plan Environmental Impact Report.**

Recommendation: Consider the matter, take public testimony and adopt Resolution 2009-21 adopt the Addendum to the General Plan Environmental Impact Report; amending the Growth Management Element of the General Plan; amending the Land Use, Circulation and Safety Elements for consistency with the Amended Growth Management Element of the General Plan.

Planning Intern Sarah Allen said the item before the Council is an update to the Growth Management Element of the General Plan which is one of the adopted tasks on the Planning Services Workplan. She said Lafayette currently receives over $300,000 in transportation funding from a voter approved ½ cent sales tax; Measure C. The tax is scheduled to sunset this year; however, in 2004, voters approved a 25 year extension to the tax; Measure J. In order to maintain the large sum of transportation funds distributed by the County, the City must update the Growth Management Element to comply with the new requirements of Measure J. She referred to the second page of the staff report, stating there are similarities between the two measures but also notable differences. Measure J no longer requires the Growth Management Element to contain level of service standards or performance standards. Additionally, Measure J requires the City to adopt an urban limit line which was previously not the case.

While the new requirements also permit restructuring the Element to be a table format referencing other elements, staff has taken the approach of updating it using the chapter format which currently exists, as it provides easy access to the information contained in chapter. Staff also suggests maintaining the service and performance standards, as they provide a public benefit and increase the accountability of the City to strive for those standards. Staff also suggests keeping the level of service standards as they will provide a common terminology to enable the City to engage in multi-jurisdictional planning as is called for in the element.

Staff has solicited comments from several referral agencies which are outlined on page 3 of the staff report. With the exception of the Flood District's comments regarding drainage impact fees, all comments have been incorporated into the Draft strike-through/underlined version; Attachment A.

The Draft version of the Element was reviewed by the Circulation Commission at their March 2nd meeting of this year. They provided recommendations for minor language modifications which have been incorporated. The Planning Commission reviewed the draft element at their April 16th meeting of this year and provided no additional modifications. Both Commissions concurred with staff's recommendation to maintain the existing format and service standards and forwarded a recommendation of approval. The project has been evaluated in accordance with CEQA and staff found that an Addendum to the General Plan Environmental Impact Report was required. Upon completion of the Addendum, staff found that the proposed modifications to the Element will not change impacts identified or mitigations required in the 2002 General Plan EIR. The draft Addendum is the last exhibit in the Resolution attached to the report.

As the Growth Management Element is a combination of policies and programs found throughout the General Plan. The update requires revisions to other elements including the Safety, Circulation and Land Use chapters. Staff recommends the Council adopt the Addendum to the

General Plan EIR, and Resolution 2009-21 to amend the Growth Management Element, the Land Use Element, Circulation Element and Safety Element for consistency.

Vice Mayor Andersson thanked Ms. Allen for the work, especially the comments explaining changes. He referred to Page 8-3, bottom of the page; the paragraph change includes crossing out CCTA and adding the City. He wondered since it is no longer required by CCTA, whether or not the City wanted to include it as it may prove too restrictive. Ms. Allen agreed and said the Transportation Planner and City Engineer indicated that it could be kept or removed.

The public hearing was opened. There were no public speakers, and the public hearing was closed.

Councilmember Federighi questioned what other Councilmembers thought about requiring the City language on page 8-3. Mayor Tatzin felt the Council could amend the General Plan if necessary. However, it may be a useful tool when sitting down with applicants to negotiate nexus payments or other conditions of approval that as part of the General Plan, the City should uphold service standards and development should ensure there is adequate contribution to the City.

Councilmember Federighi and Anderson both agreed with leaving in the paragraph.

**ACTION**: It was M/S/C (Anderson/Andersson) to adopt Resolution 2009-21 adopt the Addendum to the General Plan Environmental Impact Report; amending the Growth Management Element of the General Plan; amending the Land Use, Circulation and Safety Elements for consistency with the Amended Growth Management Element of the General Plan. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

C. **Niroop Srivatsa, Planning & Building Services Manager**
**Updating and upgrading the drainage impact and walkways fees: consideration of Ordinance 583 amending Chapter 8-1 of the Lafayette Municipal Code relating to Walkways Impact Fees and Ordinance 584 amending Chapter 8-17 of the Lafayette Municipal Code relating to Drainage Impact Fees.**
Recommendation: Introduce Ordinance 583 and 584 and continue to May 26th for the second reading and adoption.

Planning and Building Services Manager Niroop Srivatsa said staff had previously presented information in a PowerPoint presentation, copies are provided to the Council, upgrades and updates to the Drainage Impact Fee and the Walkways Fees have been reviewed, and this is a task on the 2009 Planning Division Workplan, and staff recommends the Council introduce the ordinances amending sections of the Municipal Code, and continue the matter to the May 26th meeting for a second reading.

Mayor Tatzin said in the Walkways Impact Fee ordinance, Section 8-140 and the ordinance for the Drainage Fee, section 8-1708, they talk about refunds of uncommitted fees and refunding it to the owners of record of the subdivisions. City fees will be based upon development of specific lots, albeit an empty lot that a house is now put on or a request to increase impervious surface. He questioned why the refund would be reimbursed back to owners of the entire subdivision. City Attorney Subramanian referred to Section 8-140B as referenced and it shall refund to the current record owner or owners of the lot or units as identified in the last equalized assessment roll, so it would be the current owner.

She said the language in the Walkway fee ordinance is preferred by Mayor Tatzin, which is the current record owner of the lot in 8-140B. However, Mayor Tatzin said 8-140A refers to a subdivision. Ms. Subramanian suggested having Section 8-140A reflect what 8-140B currently reflects and make the same change in the Drainage Fee language, as well.

The public hearing was opened. There were no public speakers, and the public hearing was closed.

Mayor Tatzin confirmed the changes requested were minor to both ordinances and could be brought back for adoption at the May 26th meeting.

**ACTION**: It was M/S/C (Andersson/Federighi) to Introduce Ordinances 583 and 584, as amended, and continue to May 26th for the second reading and adoption. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

**D. Donna Feehan, Administrative Analyst**

**A. Core Area Landscape and Lighting District 1979-1**

Recommendation: Conduct public hearing and adopt Resolution 2009-30, confirming the Diagram and Assessment for District 1979-1, the Core Area Landscape and Lighting District, for FY 2009-2010.

Administrative Analyst Donna Feehan gave the staff report for the Core Area Landscape and Lighting District 1979-1 and in order to collect assessments, the Council needs to adopt Resolution 2009-30 of $158,370 and she recommended adoption.

The public hearing was opened, and there were no public speakers. The public hearing was closed.

**ACTION**: It was M/S/C (Federighi/Andersson) to adopt Resolution 2009-30, confirming the Diagram and Assessment for District 1979-1, the Core Area Landscape and Lighting District, for FY 2009-2010. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

**B. Residential Lighting District 1979-2**

Recommendation: Conduct public hearing and adopt Resolution 2009-31, confirming the Diagram and Assessment for District 1979-2, the Residential Landscape and Lighting District, for FY 2009-2010.

Administrative Analyst Donna Feehan gave the staff report for the Diagram and Assessment for District 1979-2 and in order to collect assessments, the Council needs to adopt Resolution 2009-31 of $12,449 for 312 residential parcels, and she recommended adoption.

The public hearing was opened, and there were no public speakers. The public hearing was closed.

**ACTION**: It was M/S/C (Federighi/Andersson) to adopt Resolution 2009-31, confirming the Diagram and Assessment for District 1979-2, the Residential Landscape and Lighting District, for FY 2009-2010.

**11. CONSENT CALENDAR**

Mayor Tatzin recognized two additional Items G and H on the Consent Calendar. Councilmember Federighi abstained from voting on Item A.1 and A.2. Councilmember Anduri requested removal of Item A.1; April 27, 2009 minutes.

**ACTION**: It was M/S/C (Andersson/Tatzin) to approve Consent Calendar item A2, Vote: 4-0-1-0 (Ayes: Tatzin, Andersson, Anduri, Anderson; Noes: None: Abstained: Federighi; Absent: None). Items B, C, D, E, F, G and H. Vote: 5-0-0 Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

**A. City Council Minutes**

**2. April 30, 2009**

Recommendation: Approve.

**B. Resignation letter from Brayton Noll resigning from the Youth Commission**

Recommendation: Accept with regret and schedule recognition.

**C. Resignation letter from Naomi Wasserman resigning from the Youth Commission**

Recommendation: Accept with regret and schedule recognition.

**D. 2009 Planning Division Work Plan: Schedule for Completing the Long Range Tasks**

Recommendation: Receive and file.

**E. Award of contract for the 2009 Road and Drain Improvements Project Part B – Project Number 014-9675 includes reconstructing the pavement on Hastings Court, Hilltop Drive, the public portion of Rancho View Drive, Walnut Lane, Evelyn Court and Reliez Station Road between Pleasant Hill Road and Olympic Boulevard**

Recommendation: Adopt the project plans, specifications and project details to conform to the Uniform Construction Accounting Act and award contract for the 2009 Road and Drain Project, Part B to Bay Cities Paving and Grading in the amount of $874,130.94.

**F. Adopt the project plans, specifications and project details to conform to the Uniform Construction Accounting Act for the Stanley Boulevard and Warner Court Intersection Safety Project Number 014-9671 awarded to Cinray Construction in the amount of $52,610.50**

Recommendation: Adopt the project plans, specifications and project details to conform to the Uniform Construction Accounting Act for the Stanley Boulevard and Warner Court Intersection Safety Project Number 014-9671.

**G. Mary Bruns, Senior Transportation**
**Grant Application Request -- 2009 Federal Funding Cycle**
**FTA Section 5310 Elderly & Disabled Specialized Transit**

Recommendation: (1) Approve an application for the 5310 grant with the understanding that the application may be pulled based on the budget decisions made at the May 26th budget workshop and the June 8th budget public hearing; (2) Authorize the City Manager to sign the "Grant Certifications and Assurances Summary" on behalf of the City of Lafayette; (3) Schedule a public hearing at the regular City Council meeting on June 22, 2009

**H. Juliet Shanks, School Bus Program Manager**
**Amending the Lamorinda School Bus Transportation Agency's Joint Powers Authority Agreement to add Piedmont Unified School District**

Recommendation: Approve Amendment Three to the Lamorinda School Bus Transportation Agency's Joint Powers Authority Agreement

Item Removed:

**A. City Council Minutes**

1. **April 27, 2009**
   Recommendation: Approve.

Councilmember Anduri referred to page 11, 4th paragraph from the top; last sentence. He asked to delete the sentence: *"From what he has observed from the parking lot and from the Flipper's clientele, it was impossible."*

**ACTION**: It was M/S/C (Anduri/Anderson) to approve the April 27, 2009 City Council Minutes, as amended. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Anduri, Anderson; Noes: None; Abstained: Federighi).

**12. COUNCIL/COMMISSION REPORTS**

**A. Councilmember report on activities and consideration of matters a councilmember wishes to initiate for placement on a future agenda.**

Councilmembers discussed a date for the Downtown Strategy Plan meeting, and there was consensus to meet on May 18, 2009 at 5:30 p.m. regarding height and density. Regarding the scheduling of a second meeting, Mayor Tatzin suggested reserving May 20th at 5:30 p.m. and 28th at 5:30 p.m., and thereafter possibly meeting on July 13th, between the first and second Planning Commission meetings. Ms. Merideth reiterated that the results of all EIR scoping must be submitted by August 30th, which is the most important date in terms of the process.

City Manager Falk reminded Councilmembers they could also participate by teleconference, which would require posting a notice at their location.

Councilmember Federighi and other Councilmembers and staff reported on their attendance to the funeral of Mike Michek.

City Manager Falk reported that staff held a meeting with Whole Foods who continue to be interested in opening their store by May 2010. They have secured a 20-year lease on the corner of Deer Hill and First Street for employee parking. A meeting has been scheduled regarding circulation of 60 cars on and off the parcel.

Mayor Tatzin reported that he and the City Manager attended the Chamber of Commerce Board meeting luncheon today and fielded questions on the Downtown Strategic Plan, and participants were encouraged to attend the meeting.

Vice Mayor Andersson reported on the SB 375 meeting ABAG held and distributed notes on the meeting.

**B. Councilmembers Federighi and Anduri**
**Resolution 2009-27 appointing one new member to the Senior Services Commission**
Recommendation: Adopt Resolution 2009-27.

Councilmember Federighi reported that she and Councilmember were unanimous in their decision.

**ACTION**: It was M/S/C (Federighi/Anduri) to adopt Resolution 2009-27 appointing Suzanne Jones to the Senior Services Commission. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

C. **Mayor Tatzin and Councilmember Anderson**
**Resolution 2009-29 appointing two new members to the Youth Commission**
Recommendation: Adopt Resolution 2009-29.

Councilmember Anderson reported there were two very good candidates and recommended their appointments.

**ACTION**: It was M/S/C (Anderson/Tatzin) to adopt Resolution 2009-29 appointing Cara Levy and Logan Spittler. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

**13. WRITTEN COMMUNICATIONS**

A. **Letter dated April 23, 2009 from Barbara North, Contra Costa Chapter of NAIW, requesting a proclamation recognizing May 17th – 23rd as National Association of Insurance Women Week.**
Recommendation: Discuss and direct staff.

**ACTION**: It was M/S/C (Tatzin/Anderson) to receive and file. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

**14. ADJOURNMENT**

The City Council adjourned at 9:55 p.m. to the next special meeting on May 18, 2009 at 5:30 p.m. and, thereafter, the regular City Council Meeting on May 26, 2009

APPROVED:

Don Tatzin

Don Tatzin, Mayor

ATTEST:

Joanne Robbins

Joanne Robbins, City Clerk